IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 19219 of 2004

Between:

Smt. Sangeeta Toshniwal, W/o Late Sri Govind Toshniwal,
R/o 4-5-144, Hasmath Gunj, Sultan Bazar, Hyderabad.

..... PETITIONER

AND

1 The A.P. Mahesh Co-operative Urban Bank Ltd, rep. by its Chairman and Board of Directors, Sherza Estate, Nizam Shahi Road, Hyderabad.
2 The Managing Director, The A.P. Mahesh Co-operative Urban Bank Ltd, Head Office: Sherza Estate, Nizam Shahi Road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order more particularly one in the nature of writ of mandamus or any other appropriate writ declaring the action of the respondent Bank a) In adjusting the Gratuity amount payable to me and intimated to me vide their letter No. PAD/720/2004-05 dt. 14-7-2004, and in adjusting the privilege leave encashment amount as intimated to me vide their letter No. PAD/920/2004-05 dt. 6-8-2004, towards the housing loan Accounts as illegal violative of rules, abuse of power, Arbitrary adamant and violative of Article 14 and 21 of constitution of India and b) in refusing to accede to my request to continue the housing loan on such rates as per the rules in vogue as the actions of the respondent Bank are abuse of power and violative of rules and discriminatory And to direct the Bank to continue the Housing Loan sanctioned to Late Govind Toshniwal as per original terms of sanction as per rules in vogue and to return the Gratuity amount payable to and amount of privilege leave encashment amount to me without effecting any deductions/adjustments.

Counsel for the Petitioner: MR.M.GOWRI SHANKAR

Counsel for the Respondents: MR.V.SRINIVAS FOR RVAK -2

The Court, at the stage of admission, made the following :

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ORAL ORDER

The petitioner approached this Court through this Writ petition seeking to direct the respondents to pay the gratuity amount payable to her or to direct the respondents to continue the housing loan on such rates as per the rules in vogue. The petitioner's husband, who worked in the respondent-Bank, died on 27-02-1994 while in service. The husband of the petitioner obtained a house building advance of Rs.6 lakhs for the purpose of renovation and expansion of the existing house in the year 2003. He paid some installments and there remained some outstanding amount. The respondent-Bank adjusted major part of the terminal benefits towards the loan amount and the loan was closed once for all. The petitioner now approached through this writ petition seeking the reliefs mentioned above. The rules governing the loans are empowering the respondent-Bank to adjust the amount towards outstanding loan from the terminal benefits of a retired employee or the benefits on account of his death. Though the learned counsel for the petitioner submitted that the respondent-Bank is not entitled to appropriate terminal benefits towards the outstanding dues of the deceased-employee, in the light of the powers vested with the respondent-Bank, the action of the respondents cannot be said to be illegal. Therefore, no direction can be given to the Bank at this stage.

Accordingly, the writ petition is dismissed. No order as to costs.

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Dr.G.YETHIRAJULU,J

19th NOVEMBER 2004

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TO

1. The Chairman and Board of Directors, The A.P. Mahesh Co-operative Urban Bank Ltd, Sherza Estate, Nizam Shahi Road, Hyderabad.

2. The Managing Director, The A.P. Mahesh Co-operative

Urban Bank Ltd, Head Office: Sherza Estate, Nizam Shahi

Road, Hyderabad.

3. Two C.D.Copies.